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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,
v.
JOHN V. BIVONA; SADDLE RIVER
ADVISORS, LLC; SRA MANAGEMENT
ASSOCIATES, LLC; FRANK GREGORY
MAZZOLA,
Defendants, and
SRA I LLC; SRA II LLC; SRA III LLC;
FELIX INVESTMENTS, LLC; MICHELE J.
MAZZOLA; ANNE BIVONA; CLEAR
SAILING GROUP IV LLC; CLEAR
SAILING GROUP V LLC,
Relief Defendants.

Case No. 3:16-cv-01386-EMC

**PLAINTIFF SECURITIES AND
EXCHANGE COMMISSION'S
SUPPLEMENTAL BRIEF REGARDING
PROGRESSO VENTURES, LLC'S AND
GLOBAL GENERATION GROUP, LLC'S
CLAIMS**

1 In accordance with the Court's Order, entered July 17, 2018, (ECF 379), plaintiff Securities
2 and Exchange Commission (the "SEC" or "Commission") submits this Supplemental Brief to address
3 the three questions presented by the Court to all interested parties. As demonstrated below, the
4 SEC's and Receiver's proposed amended Joint Plan is supported by case precedents establishing that
5 when assets have been wrongfully commingled, injured parties should be treated equally. *See*
6 *Cunningham v. Brown*, 265 U.S. 1, 13 (1924)(holding with respect to Charles Ponzi's scheme that
7 repayments to earlier investors were invalid preferences under the bankruptcy laws and that early and
8 late investor claims should therefore be treated equally in receiving a recovery). The SEC notes that
9 the questions posed by the Court are just a small subset of the larger issues that remain to be
10 addressed in connection with the SEC's and Receiver's Joint Plan.

11 **1. Judgment Creditor Claims Do Not Have Priority Over Investor Claims.**

12 The Receiver and SEC are unaware of any secured creditor claims filed against the
13 receivership. Simply possessing a money judgment against a receivership entity does not create a
14 secured creditor claim against receivership assets because having or recording a money judgment
15 with a federal district court merely *begins* the process for collecting upon that judgment. *See Hilao v.*
16 *Estate of Marcos (In re Estate of Ferdinand E. Marco Human Rights Litigation)*, 536 F.3d 980, 988-
17 89 (9th Cir. 2008)(holding that registering a judgment in a district court merely creates a new
18 judgment in the forum state for the district court). There are no recorded security interests on
19 receivership assets that could create a secured claim against the receivership. Therefore, both the
20 creditor and investor claims asserted by Progresso and Global Generation remain "unsecured" claims,
21 and unsecured judgment creditors are not entitled to priority over the investor claims.¹

22 To ensure that all securities fraud victims are treated equally, receiverships do not give
23 unsecured judgment creditors any priority over defrauded investors. *See SEC v. Amerindo Inv.*
24 *Advisors Inc.*, 2014 U.S. Dist. LEXIS 66446 at * 50-53 (S.D.N.Y. May 6, 2014)(refusing distribution

25 _____
26 ¹ After it is registered in a federal district court, a judgment may be enforced by obtaining execution
27 in accordance with the forum state's procedures. Fed. R. Civ. Proc. 69(a)(1). *See SEC v. Kaleta*,
28 2011 U.S. Dist. LEXIS 138963 at * 33-34 (S.D. Tex. Dec. 2, 2011) (rejecting senior priority for
certain claimants because they did not perfect liens by recording U.C.C. statements and were not
subrogated to rights of secured lenders).

1 plan priority for holder of state court judgment against receivership entity). A district court does not
2 need to “favor one victim over others simply because that one raced to the courthouse and obtained a
3 judgment.” *Id.* at * 50-51. Where defendants have defrauded investors, they hold assets in
4 constructive trust for the benefit of investors, and judgment creditors therefore have no right to reach
5 those assets before the investors. *See United States v. Benitez*, 779 F.2d 135, 138-40 (2d Cir.
6 1985)(refusing to provide priority to judgment creditors under restitution plan as being inequitable
7 and contrary to constructive trust cases), *followed by SEC v. Amerindo Inv. Advisors Inc.*, 2014 U.S.
8 Dist. LEXIS 66446 at * 50-53.

9 In this proceeding, only Global Generation, but not Progresso Ventures, has a potential
10 unsecured judgment creditor claim against the receivership. In September 2015, Global Generation
11 received a money judgment in the Eastern District of Michigan against Frank Mazzola, Emilio
12 DiSanluciano and a variety of affiliated entities. ECF 359-2 (Supplemental Declaration of John
13 Syron), Exhibit C at 14-16. The only receivership entity covered by this judgment is FMOF
14 Management Associates, LLC. *Id.* Global Generation does not have a writ of execution against
15 FMOF Management or the receivership. *See* ECF 359-1 (Supplemental Declaration of John Syron)
16 at ¶ 13 (describing prior efforts to enforce judgment).² Global Generation therefore has an unsecured
17 monetary judgment against FMOF Management. *See SEC v. Kaleta*, 2011 U.S. Dist. LEXIS 138963
18 at * 33-34 (ruling lien required to create secured claim).

19 Progresso Ventures is *not* a judgment creditor of the receivership. Progresso Ventures’ Order,
20 dated May 24, 2016, from the Supreme Court of the State of New York awards \$4 million, plus
21 interests and costs, against Frank Mazzola, John Bivona and other individuals and entities, but not
22 against any of the receivership entities. Attachment B. *See also* ECF 360-2 to 360-4 (later Progresso
23 Ventures state court judgments with interest and costs). Because it has no judgment against a
24 receivership entity, Progresso Ventures could only have a general unsecured creditor claims against
25

26 ² Global Generation recorded its judgment in the Southern District of New York and the District of
27 New Jersey in February 2016, and obtained a writ of execution against Frank Mazzola. Global
28 Generation also obtained an abstract of judgment from the Northern District of California in February
2016, but that was against only Frank Mazzola and Emilio DiSanluciano. Attachment A.

1 the receivership.

2 With respect to general unsecured creditor claims, receivership distribution plans do not
3 typically give priority to unsecured creditor claims over investor claims. Where, as in this case, the
4 investors have been defrauded and the receivership is holding the proceeds of defendants' fraud,
5 some courts have held that the investors have priority over unsecured creditors in a receivership
6 because defendants are deemed to hold the defrauded investors' money in constructive trust for the
7 investors' primary benefit. See *CFTC v. PrivateFX Global One*, 778 F. Supp. 2d 775, 786 (S.D. Tex.
8 March 11, 2011)(upholding plan giving defrauded investors priority over repayment of bank loan);
9 *Quilling v. Trade Partners, Inc.*, 2006 U.S. Dist. LEXIS 99730 at * 7-8 (W.D. Mich. Nov. 17,
10 2006)(upholding plan that paid defrauded investors before creditor of receivership entity in light of
11 constructive trust). For example, in *PrivateFX Global One*, Wells Fargo Bank claimed that its
12 unpaid loan claim should receive the same payment priority as investors. Relying upon the principle
13 that assets traceable to defendants' fraud should go first to investors, the district court allowed Wells
14 Fargo's loan claim, but approved a distribution plan giving Wells Fargo's loan claim a lesser priority
15 to the defrauded investor claims. *CFTC v. PrivateFX Global One*, 778 F. Supp. 2d at 786.

16 To ensure that a receivership distribution plan does not "elevate form over substance," courts
17 will put investors who assert claims as unsecured creditors on an equal level with other investors.
18 See *SEC v. Wealth Management LLC.*, 628 F.3d 323, 334-35 (7th Cir. 2010)(upholding plan that
19 gave investors who claimed to be creditors equal distribution priority with other investors). In
20 *Wealth Management*, the Seventh Circuit rejected the claims by a certain class of investors who did
21 not receive their annual distributions, and who claimed that, under Wisconsin law, their unpaid
22 distributions should have been treated as creating a priority creditor claim against the investment
23 fund. Relying on their state law creditor status, these unpaid investors sought a distribution priority
24 over general investor claims. *Id.*

25 The *Wealth Management* Court held that even if state law gave priority to such creditor
26 claims, the federal court may ignore state law and treat the creditor claims and investor claims
27 equally. *Id.* at 333-34 (citing *Cunningham v. Brown, supra*, 265 U.S. at 13). The SEC's and
28 Receiver's Joint Plan thus does not distinguish between the claims of victims, such as Global

1 Generation or Progresso Ventures, and other investors based upon the assertion that an investor is
 2 also an unsecured creditor. Accordingly, the case precedents support the Joint Plan's treatment of
 3 investor claims and unsecured creditor claims on an equal level in receiving initial distributions
 4 according to a *pro rata* net-out-of-pocket formula. *Id.* at 334-35.

5 **2. The Court May Subordinate Interest and Cost Payments to Global Generation.**

6 Although Global Generation, unlike Progresso Ventures, has a judgment against a
 7 receivership entity for interest and costs, those components of the judgment may be subordinated to
 8 the compensation of other defrauded investors. *See SEC v. Amerindo Inv. Advisors Inc.*, 2014 U.S.
 9 Dist. LEXIS 66446 at * 50-53 (subordinating entire state court judgment). A court may therefore
 10 approve a *pro rata* distribution plan that off-sets future distributions by the amount of interest
 11 payments previously made or that withhold interest payments until all investors recover their
 12 principal under the plan. *See SEC v. Veros Farm Loan Holding, LLC*, 2017 U.S. Dist. LEXIS 21711
 13 at * 24-26 (S.D. Ind. Feb. 16, 2017)(upholding distribution plan that off-set future distribution
 14 payments by the amounts of prior interest payments).

15 In this case, subordinating Global Generation's claim for interest and costs until other
 16 investors are repaid their principal losses would prevent Global Generation's preferential recovery for
 17 the interest and cost components of its judgment. *See SEC v. Amerindo Inv. Advisors Inc.*, 2014 U.S.
 18 Dist. LEXIS 66446 at * 50-53. Paying such interests and costs creates the risk of rewarding investors
 19 who got to the courthouse before other investors. *Id.* at * 50.

20 **3. Investor and Creditor Status Under the Joint Plan**

21 In its third question, the Court asks whether Global Generation and Progresso Ventures may
 22 choose between being treated as Palantir investors or as creditors. Because the Joint Plan treats
 23 investors and unsecured creditors the same for purposes of the initial distributions, the SEC has
 24 previously taken no position on whether Global Generation and Progresso Ventures should be treated
 25 as investors or creditors.³ ECF 353 at 5. Instead, both Global Generation and Progresso Ventures are
 26 _____

27 ³ The Joint Plan provides that investors and unsecured creditors (including judgment creditors)
 28 receive a *pro rata* distribution based upon the claimant's net out-of-pocket loss. ECF 317-1 at 10.
 Investors and unsecured creditor receive distributions after claimants who elect an early opt-out and
 Footnote continued on next page

1 victims of defendants' Ponzi scheme, whether treated as an investor or an unsecured creditor.

2 However, with respect to the Court's question regarding whether Global Generation and
3 Progresso Ventures may choose between being treated as Palantir investors or creditors, the SEC
4 responds "no." Although the Joint Plan provides flexibility for the treatment of claims, Global
5 Generation and Progresso Ventures had the opportunity to support their legal and factual positions in
6 connection with the July 16, 2018 hearing. Global Generation's evidence and arguments
7 demonstrates that it possesses an investor status because it actually purchased Palantir shares from
8 FMOF Management Associates, and a large number of those shares were not redeemed through a
9 redemption payment. By comparison, Progresso Ventures never had a Palantir share purchase
10 agreement with any receivership entity. As a result, to the extent that FMOF Management or Clear
11 Sailing diverted Progresso Venture's money to purchase Palantir shares, Progresso Ventures is an
12 unsecured creditor for its net out-of-pocket losses based upon an unjust enrichment claim or similar
13 type of claim.

14 Dated: July 24, 2018

Respectfully submitted,

15
16 /s/ John S. Yun

17 John S. Yun
18 Attorneys for the Plaintiff Securities and Exchange
19 Commission
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28 payment of administrative costs. *Id.* at 14-15. Once all parties recover their out-of-pocket losses, the Receiver may propose a third distribution to investors based upon a particular investment's success. *Id.* at 15.

Exhibit A

to

SEC Supplemental Brief

EJ-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, and State Bar number):
 After recording, return to:
 Scott M. Levin
 200 S. Michigan Ave. Ste. 1100
 Chicago, Illinois 60604
 TEL NO.: 312-472-4000 FAX NO. (optional): 312-939-5617
 E-MAIL ADDRESS (Optional): SML@h2law.com
 ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco (ND CAL)
 STREET ADDRESS: 450 Golden State Avenue
 MAILING ADDRESS: Box 38060
 CITY AND ZIP CODE: San Francisco, 94102-3489
 BRANCH NAME: Northern District of California

FOR RECORDER'S USE ONLY

PLAINTIFF: Global Generation Group, LLC et al.
 DEFENDANT: Emilio DiSanluciano et al.

CASE NUMBER:
 15 MC 80287 *EDV*

ABSTRACT OF JUDGMENT—CIVIL AND SMALL CLAIMS Amended

FOR COURT USE ONLY

1. The judgment creditor assignee of record applies for an abstract of judgment and represents the following:
 a. Judgment debtor's Name and last known address
 Emilio DiSanluciano
 4220 Wilkie Way
 Palo Alto, California 94306-4430
 b. Driver's license no. [last 4 digits] and state: Unknown
 c. Social security no. [last 4 digits]: 1229 Unknown
 d. Summons or notice of entry of sister-state judgment was personally served or mailed to (name and address):
 Emilio DiSanluciano
 4220 Wilkie Way Palo Alto, California 94306-4430
 2. Information on additional judgment debtors is shown on page 2.
 3. Judgment creditor (name and address):
 Global Generation Group, LLC
 8485 Warwick Groves, Ct.
 Grand Blanc, Michigan 48439
 Date:
 Scott M. Levin
 (TYPE OR PRINT NAME)

4. Information on additional judgment creditors is shown on page 2.
 5. Original abstract recorded in this county:
 a. Date: *2/2/2016*
 b. Instrument No.: *[Signature]*
 (SIGNATURE OF APPLICANT OR ATTORNEY)

6. Total amount of judgment as entered or last renewed:
 \$2,227,580.98
 7. All judgment creditors and debtors are listed on this abstract.
 8. a. Judgment entered on (date): 9-16-2015
 b. Renewal entered on (date):
 9. This judgment is an installment judgment.

10. An execution lien attachment lien is endorsed on the judgment as follows:
 a. Amount: \$2,227,580.98
 b. In favor of (name and address):
 Global Generation Group, LLC
 11. A stay of enforcement has
 a. not been ordered by the court.
 b. been ordered by the court effective until (date):
 12. a. I certify that this is a true and correct abstract of the judgment entered in this action.
 b. A certified copy of the judgment is attached.

[BEAL]

This abstract issued on (date):
 2/17/16

Clerk, by *[Signature]* Deputy
 SUSAN Y. SOONG

PLAINTIFF: Global Generation Group, LLC et al. DEFENDANT: Emilio DiSanluciano et al.	COURT CASE NO.: 15 MC 80267
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NAMES AND ADDRESSES OF ADDITIONAL JUDGMENT CREDITORS:

13. Judgment creditor (*name and address*):
 Benchmark Capital, LLC
 8485 Warwick Groves, Ct
 Grand Blanc, Michigan 48439

14. Judgment creditor (*name and address*):

15. Continued on Attachment 15.

INFORMATION ON ADDITIONAL JUDGMENT DEBTORS:

16. Name and last known address
 Frank Mazzola
 27 Dogwood Hill Rd
 Upper Saddle River, NJ 07458-2208
 Driver's license no. [last 4 digits] and state: Unknown
 Social security no. [last 4 digits]: 5430 Unknown
 Summons was personally served at or mailed to (*address*):
 27 Dogwood Hill Rd
 Upper Saddle River, NJ 07458-2208

17. Name and last known address
 Driver's license no. [last 4 digits] and state: Unknown
 Social security no. [last 4 digits]: Unknown
 Summons was personally served at or mailed to (*address*):

18. Name and last known address
 Driver's license no. [last 4 digits] and state: Unknown
 Social security no. [last 4 digits]: Unknown
 Summons was personally served at or mailed to (*address*):

19. Name and last known address
 Driver's license no. [last 4 digits] and state: Unknown
 Social security no. [last 4 digits]: Unknown
 Summons was personally served at or mailed to (*address*):

20. Continued on Attachment 20.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Global Generation Group, LLC and
Benchmark Capital, LLC,

Plaintiffs,

Case No. 13-cv-14979
Hon. Judith E. Levy
Mag. Judge Michael J. Hluchaniuk

v.

Frank Mazzola, Emilio
DiSanluciano, FB Management
Associates II, LLC, Pipio
Management Associates, LLC,
Felix Venture Partners Qwiki
Management Associates, LLC,
Facie Libre Management
Associates, LLC, and FMOF
Management Associates, LLC,

Defendants.

JUDGMENT

The award of arbitrators William L.D. Barrett, Aurthur D. Felsenfield and Nicholar J. Cooney, dated July 9, 2015, having been confirmed by this Court on September 9, 2015 (Dkt. 32), and this Court having made and caused its statement of decision to be filed in this case,

IT IS ADJUDGED that Plaintiffs are to recover from Defendants Frank Mazzola, Emilio Disanluciano, FB Management Associates II, LLC, Pipio Management Associates, LLC, Felix Venture Partners Qwiki Management Associates, LLC, Facie Libre Management Associates, LLC and FMOF Management Associates, LLC, jointly and severally,

1. \$1,700,000.00;
2. Interest thereon from December 1, 2012 through June 15, 2015 at 5.75% pursuant to Delaware law – totalling \$244,241.10;
3. Interest for delayed repayment in respect of Palantir put \$59,012.33;
4. Interest for delayed repayment in respect of Facebook put \$104,179.17;
5. Attorneys fees in the amount of \$66,624.43, which we find to be reasonable together with \$5,378.93 in expenses;
6. The administrative fees and expenses of the American Arbitrator Association, totalling \$14,450.00, and the compensation and expenses of the Arbitrators, totalling \$38,385.00. Therefore, Respondents shall jointly and severally pay to petitioners an

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5:13-cv-14979-JEL-MJH Doc # 33 Filed 09/16/15 Pg 3 of 3 Pg ID 1108

amount of \$48,135.00, representing that portion of said fees and expenses in excess of the apportioned costs previously paid by Petitioners.

IT IS FURTHER ADJUDGED that Defendant FMOF MANAGEMENT ASSOCIATES, LLC committed fraud upon Petitioners.

DAVID J. WEAVER
CLERK OF THE COURT

By: s/Felicia M. Moses
DEPUTY COURT CLERK

APPROVED:

s/Judith E. Levy
JUDITH E. LEVY
UNITED STATES DISTRICT JUDGE

I hereby certify that the foregoing is a true copy of the original on file in this Office.

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BY: 

Deputy

Exhibit B
to
SEC Supplemental Brief

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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PROGRESSO VENTURES, LLC,	:
	:
Plaintiff,	:
	:
-against-	:
	:
FRANK MAZZOLA, EMILIO DISANLUCIANO,	:
JOHN BIVONA, WILLIAM BARKOW, FB	:
MANAGEMENT ASSOCIATES, LLC, PIPIO	:
MANAGEMENT ASSOCIATES, LLC, PROFESSIO	:
MANAGEMENT ASSOCIATES, LLC, FELIX	:
VENTURE PARTNERS QWIKI MANAGEMENT	:
ASSOCIATES, LLC, FACIE LIBRE MANAGEMENT	:
ASSOCIATES, LLC, AND FELIX INVESTMENTS	:
LLC.	:
	:
Defendants.	:
-----X	

Index No. 650614/2015
 (consolidated with Index No.
 652730/2015)
 Commercial Part 53
~~PROPOSED~~ ORDER

WHEREAS, Plaintiff Progresso Ventures, LLC ("Progresso") has made an application pursuant to Article 62 of the Civil Practice Law and Rules ("CPLR") for an order of attachment;


WHEREAS, it satisfactorily appears to the Court from the papers submitted in support thereof that the grounds for an attachment set forth in CPLR §§ 6201, 6210, and 6212 exist in favor of Plaintiff and against Defendants FB Management, Frank Mazzola, John Bivona, Emilio DiSanluciano, and William Barkow to recover jointly and severally the sum of \$4,000,000, which includes additional accrued interest, costs, and sheriff's fees and expenses;

WHEREAS, Progresso has made an application pursuant to Article 9 of the New York Uniform Commercial Code for an order directing the Defendants to deliver to Plaintiff (i) all of FB Management's membership interests in Facie Libre Associates II, LLC (the "FLA Fund Interests") and (ii) the collateral identified in Section 2 of that certain Collateral Assignment of Back-End Interest dated February 16, 2011 (together with the FLA Fund Interests, the


“Collateral”) or, alternatively, pursuant to Article 63 of the CPLR, an order preliminarily enjoining Defendants from selling, transferring, encumbering, or disposing of the Collateral;

WHEREAS, it satisfactorily appears to the Court from the papers submitted in support hereof that the grounds for an order directing the delivery of the Collateral to Plaintiff and preliminarily enjoining Defendants from selling, transferring, encumbering, or disposing of the Collateral have been established;

NOW, on motion of Holwell Shuster & Goldberg LLP, attorneys for Progresso, and upon the submissions of the affirmation of Zachary A. Kerner, Esq., dated May 6, 2016, and the exhibits annexed thereto, Progresso’s Memorandum of Law in Support of Its Motion, dated May 6, 2016, and all other papers previously submitted in the above-referenced actions, it is

 ORDERED that Progresso’s application is granted ^{as follows} and, accordingly, it is


ORDERED that the Sheriff of any County in the State of New York or of the City of New York attach the property of FB Management, Frank Gregory Mazzola, John Vincent Bivona, ^{and} Emilio Antonio DiSanluciano, ~~and William Lawrence Berkow~~ at any time before final judgment, as will satisfy the sum of \$4,000,000, by levy upon:





(i) Their interests in any limited liability company, including but not limited to: Felix Investments, LLC, Felix Advisors, LLC, FB Management Associates, LLC, Facie Libre Associates I, LLC, Facie Libre Associates II, LLC, Facie Libre Management Associates, LLC, Pipio Associates I, LLC, Pipio Management Associates, LLC, Professio Associates I, LLC, Professio Management Associates, LLC, Felix Venture Partners Qwiki, LLC, Felix Venture Partners Qwiki Management Associates, LLC, Solis Associates I, LLC, Solis Associates II, LLC, Solis Management Associates, LLC, Aliquantum Associates I, LLC, Aliquantum Associates I, LLC, Aliquantum Management Associates, LLC, Ludus Associates I, LLC, Ludus Management

Associates, LLC, Navitas Associates, LLC, Navitas Management Associates, LLC, Liber Argentum Associates, LLC, Liber Argentum Management Associates, LLC, Lorem Ipsum Associates I, LLC, Lorem Ipsum Management Associates, LLC, Musica Associates I, LLC, Musica Management Associates, LLC, Saddle River Advisors, LLC, SRA Management Associates, LLC, SRA I, LLC, SRA II, LLC, SRA III LLC, Clear Sailing Group IV LLC, Clear Sailing Group V LLC, NYPA I, LLC, NYPA II, LLC, NYPA Management, LLC, Silverback Fund I SPC, Silverback Fund II Limited, and Fortuna Funds, LLC;

(ii) Their interests in accounts maintained in any banking or financial institution, including, but not limited to, accounts maintained by: Bank of America, N.A., Citibank, N.A., J.P. Morgan Chase Bank, N.A., TD Bank, N.A., Wells Fargo Bank, N.A., Valley National Bank, Morgan Stanley, N.A., UBS Bank USA, N.A., RBC Bank, N.A., and PNC Bank, N.A.; and it is further

 ORDERED that the Sheriff hold and safely keep all such property paid, delivered, transferred, or assigned to the Sheriff or taken into his or her custody, to answer any judgment that may be obtained against Defendants FB Management, Mazzola, Bivona, DiSanluciano, ~~Bank~~^{or} ~~Bank~~ in this action, and that he or she otherwise proceed in a manner required by law;

 ORDERED that the garnishee's statement required by CPLR § 6219 be served within ten days after service of the levy, and that a copy of the garnishee's statement be served upon counsel to Plaintiff; and it is further

 ORDERED that Defendants FB Management, Mazzola, Bivona, ^{and} DiSanluciano, ~~and~~ ~~Bank~~ produce any discovery requested in aid of attachment, including disclosure of the location of their assets and any transfer made within one year and ninety days before March 2, 2015; and it is further

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ORDERED that Defendants FB Management, Mazzola, Bivona^{and}, DiSanluciano, ~~and~~
~~Parkov~~, including their agents and all persons acting in concert or participation with them, and
all persons in possession of the property described above who receive actual notice of this Order
by personal service or otherwise, are hereby prohibited until further order of this Court from
selling, assigning, transferring, or paying over to any person other than the Sheriff any such
property; and it is further

ORDERED that, notwithstanding the paragraph immediately above, all Defendants, their
agents, subdivisions, servants, officers, members, employees, and attorneys, shall deliver any and
all Collateral to Plaintiff pending further order from the Court; and it is further

ORDERED that Progresso's undertaking is hereby fixed in the sum of \$ 50,000; and it
is further

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ORDERED that service of this Order may be made upon counsel of record of all
Defendants by overnight courier service and email, and that such service be and hereby is
deemed equivalent in all respects to service of same directly upon Defendants.

SO ORDERED:

5/24/16



HON. CHARLES E. RAMOS, J.S.C.

HON. CHARLES E. RAMOS